

### REMARKS

Favorable reconsideration of this application as presently amended and in light of the following discussion is respectfully requested.

Claims 1-23 and 25-38 are pending in this case. The present Amendment amends Claims 1, 3, 14, 19, 21, 22, 25-31, 33, 34 and 36-38 and cancels Claim 24 without prejudice or disclaimer. Claims 39-48 have been withdrawn. No new matter has been added as Claim 24, and the other original claims, provides support for the claim amendments.

The outstanding Office Action rejected Claims 1-38 under 35 U.S.C. §112, second paragraph, as indefinite; Claims 1-4, 8-9, 11-18, 23-30, 33-34, and 36-37 were rejected under 35 U.S.C. §103(a) as unpatentable over Friz et al. (U.S. Patent No. 5,786,994, hereinafter “Friz”) in view of Applicants’ Background of the Invention (hereinafter “ABI”); Claims 5-7 were rejected under 35 U.S.C. §103(a) as unpatentable over Friz and ABI in view of Ridolfo (U.S. Patent No. 6,735,549); Claim 10 was rejected under 35 U.S.C. §103(a) as unpatentable over Friz and ABI in view of Kucek et al. (U.S. Patent No. 6,832,199, hereinafter “Kucek”); Claims 19-22 were rejected under 35 U.S.C. §103(a) as unpatentable over Friz and ABI in view of Babula et al. (U.S. Patent No. 6,381,557, hereinafter “Babula”); and Claims 31-32, 35 and 38 were rejected under 35 U.S.C. §103(a) as unpatentable over Ridolfo in view of ABI.

Applicants acknowledge with appreciation the courtesy of Examiner Bleck in granting an interview in this case with Applicant’s representatives on December 21, 2006, during which time the issues in the outstanding Office Action were discussed as substantially summarized hereinafter and also on the Interview Summary Sheet. During the interview Applicants’ representatives discussed changes to address the rejections on the merits. As noted on the Interview Summary Sheet, the Examiner indicated that our proposed

amendments overcome the 35 U.S.C. § 112 rejections. The Examiner also indicated that she would reconsider the 35 U.S.C. § 103 rejections based on the enclosed response.

In response to the rejection of Claims 1-38 under 35 U.S.C. §112, second paragraph, Applicants respectfully submit that “the expectancy” has antecedent basis at line 7 of Claims 1 and 31; line 5 of Claims 33-35; line 4 of Claims 36 and 37; and line 6 of Claim 38. Also, in Claim 1, “determined level” has been changed to “value,” in order to more clearly indicate that the “value of the expectancy” is not a threshold. Similar changes have been made to Claims 3, 19, 21, 33, and 36.

In response to the rejection of Claim 14, Applicant has amended Claim 14 to recite “the expectancy is the parameter data received at a predetermined time,” in order to make it clear that parameter data is sent and received at a predetermined time.

In response to the rejection of Claim 22, it is clear that the contents (1<sup>st</sup>-3<sup>rd</sup>) are different and depend on different threshold level conditions. It is also clear that the “first type” and “second type” of contract information are different from each other.

The claims do not have to set forth the specific subject matter of the contents or types to satisfy the second paragraph of 35 U.S.C. §112, see MPEP 2173.04 and the discussion therein pointing out that breadth is not indefiniteness. Accordingly, Applicants respectfully request the rejections under 35 U.S.C. §112 be withdrawn.

In response to the rejection of Claims 1-4, 8-9, 11-18, 23-30, 33-34, and 36-37 under 35 U.S.C. § 103(a), Applicants respectfully request reconsideration of the rejection and traverse the rejection as discussed next.

Briefly recapitulating, Amended independent Claim 1 is directed to:

A medical equipment management apparatus for managing a medical equipment provided in a medical facility connected to the apparatus through a network, the apparatus comprising:

a reception unit connected to the network, configured to receive parameter data from the medical equipment located in the medical facility;

a storage unit connected to the network, configured to store the parameter data;

a prediction unit connected to the network, configured to calculate an expectancy of the parameter data to be received in the future based on the stored parameter data;

a determination unit connected to the network, configured to determine a value of the expectancy;

***a second reception unit connected to the network configured to receive a reference request for the expectancy from a computer;***

a providing unit connected to the network configured to allow the computer to refer to information of the expectancy based on the received reference request; and

an informing unit configured to issue a notice to the medical facility through the network according to the value without receiving a reference request.

Independent Claims 31, 33-38 recite similar features.

Turning to the applied art, Friz shows in Figure 3, a remote performance monitoring system 46 connected to a memory 50. The remote performance monitoring system 46 is connected to a plurality of laser images 14<sub>1</sub>-14<sub>n</sub>. The Office Action states at page 8, lines 1-6, that “Friz discloses a system sending a request to the processor from a user and visibly displaying the report in an electronic mail message or on a display of a user’s computer.” However, Friz states that the “system 46 may send a request to processor 16 to visibly display the report on a display panel associated with laser imager 14<sub>1</sub>-14<sub>n</sub>.”<sup>1</sup> A remote performance monitoring system 46 sending a request to processor 16 is not a “second reception unit connected to the network configured to receive a reference request for the expectancy from a computer” as recited in Applicants’ amended independent Claim 1. Further, Figure 3 of Friz does not show an arrow going from an order technician 60 to the remote performance monitoring system 46 which would be the case if the remote performance monitoring system 46 was configured to receive a reference request from a computer.

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<sup>1</sup> See Friz at column 12, lines 17-21.

Accordingly, it is respectfully submitted that independent Claims 1, 31, 33-38 and all claims depending therefrom patentably distinguish over Friz. Further, Applicants respectfully submit that ABI fails to cure the deficiency noted above.

Also, and in addition to the discussion of December 21, 2006, Applicants note that what is “known” to applicants in Japan is not an admission as to what is known in the United States. In order to be “prior art,” only knowledge in the United States under 35 U.S.C. § 102(a) (“the invention was known or used by others in this country...”) is applicable. Thus, a mere admission of knowledge in Japan does not qualify as a “prior art” admission.

In response to the rejection of Claims 5-7 under 35 U.S.C. § 103(a), Applicants respectfully request reconsideration of the rejection and traverse the rejection as discussed next.

Amended Claim 5 recites,

***... the predetermined threshold includes a first threshold level and a second threshold level exceeding the first threshold level.***

Ridolfo states that “component monitoring may utilize alarm/alert limits using thresholds, bands and frequency filters.”<sup>2</sup> The outstanding Office Action at page 10, lines 8-10 states the assumption that “using bands and thresholds are considered to be a form of ‘an upper threshold level and a bottom threshold level of the parameter data.’” This assumption is unsupported because Ridolfo does not teach or suggest that “the predetermined threshold includes a first threshold level and a second threshold level exceeding the first threshold level” as in Applicants’ Claim 5. Assumptions cannot be substituted for the required showing of prior art evidence, see *In re Warner*, 379 F.2d 1011, 1017, 154 USPQ 173, 178 (CCPA 1967).

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<sup>2</sup> See Ridolfo at Column 5, lines 63-67.

In contrast, Ridolfo merely states that component monitoring may utilize thresholds. Ridolfo does not disclose or suggest a first threshold level, and a second threshold level exceeding the first threshold level. Accordingly, Applicants respectfully request the rejection of Claims 5-7 to further be withdrawn for this reason as well as for the reasons noted as to present Claim 1.

In response to the rejection of Claims 31-32, 35, and 38 under 35 U.S.C. § 103(a), Applicants respectfully request reconsideration of the rejection and traverse the rejection as discussed next.

Amended Claim 31 recites, *inter alia*,

a reception unit connected to the network configured to receive parameter data regarding the medical equipment;

a storage unit connected to the network configured to store the parameter data;

a prediction unit connected to the network configured to calculate an expectancy of the parameter data to be received in the future based on the stored parameter data;

a determination unit connected to the network ***configured to determine a date when the expectancy is substantially identical to a predetermined threshold;***

a second reception unit connected to the network configured to receive a reference request for the date from a computer; and

a providing unit connected to the network configured to allow the computer to refer to information of the date based on the received reference request.

Independent Claims 35 and 38 recite similar features.

Turning now to the applied art, Figure 2 of Ridolfo shows plant equipment 1 connected to a Data Acquisition System 2, which in turn is connected to a digital computer 3. The digital computer 3 contains an Equipment Failure & Degradation Evaluation Module 4, Probability-of-Failure Predictor Module 5, and Date-of-Failure Predictor Module 6. The digital computer 3 is connected to a Visual Display Unit (VDU) 8 and Operator Input

Devices (OID) 9 via a network. A plant operator or maintenance personnel enters a future date of interest via the VDU 8 and the OID 9.<sup>3</sup> The Probability-of-Failure Predictor Module 5 then determines the overall probability of failure for the system before the future date of interest and the overall probability of failure for the system after the future date of interest.<sup>4</sup>

Ridolfo also states that “the invention also provides a Date-of-Failure Predictor Module 6 that determines the calendar date which corresponds to a specified probability of failure occurring. For example, if 4% is entered, the module determines the calendar date for which there is a 4% probability of the equipment failing prior to this date.”<sup>5</sup>

However, Ridolfo does not teach or suggest “a determination unit connected to the network *configured to determine a date when the expectancy is substantially identical to a predetermined threshold*” as recited in Applicants’ Claim 31. In Ridolfo, a user inputs a date and the system provides the probabilities of failure before and after the specified date. This is not determining a date when the expectancy is substantially identical to a predetermined threshold. Ridolfo also describes that if a user enters in a percentage of failure (e.g. 4%), the system will determine a date where there is a 4% probability of the equipment failing prior that date. However, Ridolfo does not determine a date when the expectancy is substantially identical to a predetermined threshold, but rather a user inputs any probability they desire into the system. This inputted probability is not a *predetermined threshold*. Accordingly, Applicants respectfully request the rejection of Claims 31-32, 35, and 38 also be withdrawn.

With regard to the rejections of Claims 10, and 19-22 under 35 U.S.C. § 103, it is respectfully submitted that none of Ribolo, Kucek, Babula or ABI, considered alone or together in any proper combination, cure any of the above-noted deficiencies of Friz.

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<sup>3</sup> See Ridolfo at Column 9, lines 23-25.

<sup>4</sup> See Ridolfo at Column 9, lines 32-37.

<sup>5</sup> See Ridolfo at Column 11, lines 17-22.

Consequently, in view of the foregoing amendment and remarks, it is respectfully submitted that the present Application, including Claims 1-3, 6-23, 25-38, and 49, is patentably distinguished over the prior art, in condition for allowance, and such is respectfully requested at an early date.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,  
MAIER & NEUSTADT, P.C.



Eckhard H. Kuesters  
Attorney of Record  
Registration No. 28,870

Customer Number

**22850**

Tel: (703) 413-3000  
Fax: (703) 413 -2220  
(OSMMN 03/06)

Raymond F. Cardillo  
Registration No. 40,440